



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

November 10, 2005

Regulatory Division
South Permits Branch
West Permits Section
SAJ-2004-12020 (IP-MN)



Laird S. Wreford, Coastal Resources Manager
Sarasota County Natural Resources
2817 Cattlemen Road
Sarasota, FL 34232

Dear Mr. Wreford:

Reference is made to Department of the Army (DA) permit application SAJ-2004-12020 (IP-MN) that you submitted on behalf of the Sarasota County Board of County Commissioners to re-open Midnight Pass between Siesta and Casey Keys in Sarasota County.

Enclosed are copies of comments received in response to the public notice from the National Marine Fisheries Service (NMFS), the Environmental Protection Agency (EPA), and from various members of the general public objecting to the proposed project. The list of objectors who requested that the Corps hold a public hearing include Manasota-88, the North Casey Key Association, the Better Government Association of Sarasota County, Kathleen and Philip Vukovic, Ted and Julie Caine, the Casey Key Association, and Mr. R. Lee Armbruster. Others commenting negatively on the project include Mr. Ralph Heath (e-mail), Mr. and Mrs. A.G. Spicola, Kenneth G. Oertel, Esquire, the American Littoral Society, and Mr. David A. Link.

We have not received comments from the U.S. Fish and Wildlife Service (FWS). A copy of the FWS comments will be sent to you as soon as they are received. We are anticipating that the FWS would provide a Biological Opinion (BO) for nesting sea turtles and the Florida manatee and comments under the Fish and Wildlife Coordination Act. The FWS has not notified us of the date the BO would be completed. A copy of the FWS letter advising us of the date the BO would be completed will also be sent to you when it is received.

The initial NMFS letter of October 5, 2005, concerned the impacts of the project on Essential Fish Habitat (EFH) that is part of the Magnuson-Stevenson Act. The NMFS made an EFH recommendation that

stated authorization for the project shall not be granted. The body of the letter supported their recommendation by outlining impacts to EFH within the project area. The NMFS letter of October 31, 2005, indicated the project would have substantial and unacceptable impact on nationally important aquatic resources (ARNI). In your response to the NMFS letters, you will need to address what actions would be taken to minimize EFH impacts below the unacceptable level. The Corps is in agreement with the EFH comments of the NMFS.

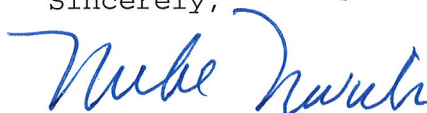
The initial EPA letter of October 6, 2005, outlined the adverse impacts associated with this project and then indicated that the project not be approved. The EPA stated a belief that the applicant had not documented the need for the project and the feasibility of long-term maintenance. The applicant also has not demonstrated that the project avoids or minimizes impacts to the greatest extent possible nor has the applicant provided any type of mitigation for the impacts associated with this project. In their letter of November 3, 2005, the EPA reiterated their previous letter and the EPA indicated that the project does not comply with the Section 404(b)(1) Guidelines of the Clean Water Act and that the project would result in substantial and unacceptable adverse impacts to ARNI. Based on the information currently in the file, the Corps is in agreement with the EPA regarding their concerns for the project and the impacts to ARNI.

The State Historic Preservation Officer (SHPO), by letter dated August 31, 2005, indicated there could be impacts to historic resources especially Site 8S017. Please review this letter and advise how the concerns of the SHPO would be addressed.

The comments made by the general public in opposition to this project generally mirror the comments made by the NMFS and the EPA. This project was previously denied by the State and, therefore, denied by the Corps without prejudice back in the early 1990's. The pass has been closed for over 20 years indicating the bay has adapted to the closed pass. In addition to responding to the federal agencies and the general public, strong scientific data must be provided that would indicate the pass would stay open without hardening the pass or using excessive maintenance procedures. Water quality improvements that may accrue due to opening the pass would have to be provided especially in light of the submerged aquatic vegetation and mangrove vegetation within the project area.

If you have any questions regarding the application, please contact the undersigned at the letterhead address or by telephone number at (904) 232-2171.

Sincerely,



Mike Nowicki
Team Leader West Permits Section

Enclosures

1. EPA letters dtd 10/6/2005 and 11/3/2005
2. NMFS letters dtd 10/5/2005 and 10/31/2005
3. SHPO letter dtd 8/31/2005
4. Manasota-88 letter dtd 8/15/2005
5. North Casey Key Association letter dtd 8/19/2005
6. Better Government of Assn of Sarasota Co letter dtd 8/30/2005
7. Vukovic letter dtd 9/6/2005
8. Casey Key Association letter dtd 9/3/2005
9. Caine letter dtd 9/6/2005
10. Armbruster letter dtd 9/6/2005
11. Link e-mail dtd 8/29/2005 w/attachment
12. Link letter dtd 10/21/2005 w/attachments
13. American Littoral Society letter dtd 9/1/2005
14. Oertel letter dtd 9/6/2005
15. Heath e-mail dtd 9/3/2005
16. Spicola letter dtd 9/6/2005

Copy Furnished (w/o enclosures):

Karyn M. Erickson P.E.
Erickson Consulting Engineers
1819 Main Street, Suite 404
Sarasota, Florida 34236



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV - 3 2005

Colonel Robert M. Carpenter
District Engineer
Attn: Michael Nowicki
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

SUBJ: Sarasota County BCC
Permit Application No. SAJ-2004-12020 (IP-MN)

Dear Colonel Carpenter:

This letter is a follow-up to our letter of October 6, 2005, and is sent in accordance with Part IV, 3(b) of the Memorandum of Agreement between the Environmental Protection Agency (EPA) and the Department of the Army regarding Section 404(q) of the Clean Water Act, 33 U.S.C. 1344 (q). The project is described in a public notice dated August 8, 2005, to dredge Midnight Beach in order to create a pass between Little Sarasota Bay and the Gulf of Mexico. The project is located in Section 4, Township 38 South, Range 18 East, and Sections 32, 33, and 37, Township 37 South Range 18, East Bird Keys and Laurel, Sarasota County, Florida.

The applicant proposes to create a navigational channel from the Gulf Intracoastal Waterway to the Gulf of Mexico between Siesta and Casey Keys, dredge an access channel from the existing Turtle Beach boat ramp to the proposed pass, and nourish the gulfside beaches north and south of the proposed pass. The channel dredging will include the main 3,390-foot long, 300-foot wide (top width), 10-foot deep channel and the creation of a 1,450-foot long, 24-foot wide (bottom width), 6-foot deep access channel. The project is located within the Sarasota Bay National Estuary Program, an area designated as an Aquatic Resource of National Importance (ARNI).

In EPA's October 6, 2005 letter, numerous issues were raised concerning the potential for substantial and unacceptable adverse impacts to this ARNI. Additionally, the requirements of the Section 404(b)(1) Guidelines (Guidelines) for avoidance, minimization, and compensation were not adequately addressed by the applicant in the information made available for review. In particular, in our October 6th letter, we requested additional information regarding the following issues:

- Documentation to support the stated project purposes (i.e., restore tidal flow to Little Sarasota Bay, improve water quality in the bay, improve boat access to the Gulf of Mexico, and provide high quality beach sand for nourishment of South Siesta and Casey Keys) to include: changes in salinity regime and tidal elevations pre- and post-closing of the former Midnight Pass, documented water quality

impairments and resultant total maximum daily load allocations, and any other available data to support the stated purposes for this project.

- In accordance with 40 CFR 230.10(d) of the Guidelines, information should be provided on the alternatives analysis for project location, alternatives analysis for site design, and cumulative effects analysis. Information that should be provided includes historical information and any modeling or other documentation supporting the anticipated long-term dredging and disposal needs for maintaining the proposed project in this artificial configuration.
- In accordance with 40 CFR 230.11(g) of the Guidelines, we believe the cumulative effects analysis should include documentation on regional dredging needs, anticipated increases in boating sizes, activities and impacts, effects on direct and adjacent habitats and wildlife, including sea turtle nesting and manatees. No action alternatives should be addressed as part of this assessment.

Overall, the proposed project will adversely affect approximately 22 acres of estuarine habitat through dredging and an additional 22 acres of nearshore marine habitat through filling for beach renourishment. Hardbottom habitats offshore of Casey Key also could be affected by the initial beach renourishment activities, as well as future renourishment activities. The applicant identifies the following direct impacts associated with the creation of a channel at the current beach location in the public notice:

- Removal of 3.33 acres of mangroves,
- Removal of 8.98 acres of seagrasses,
- Removal of 3.96 acres of additional submerged bottom area,
- “Possible” impacts to an unidentified quantity of hardbottom habitat located offshore of Casey Key,
- Removal of 2.01 acres of coastal shrub and additional unspecified amount of other beach habitat,
- Unspecified impacts to nesting loggerhead and green sea turtles, and
- Potential impacts to manatees and other fisheries.

The above listed direct impacts can be expected to result in significant secondary impacts as specified in 40 CFR 230.11(h) of the Guidelines. Secondary impacts include sediment washout and boating impacts affecting adjacent estuarine bottoms, including the dense seagrass beds. Erosion and sedimentation could also occur from boat utilization of the channel and storm events entering through the 10-foot deep inlet. Additional impacts will be associated with increased boat traffic and the effects of maintenance dredging in the future. Such impacts could include sedimentation of adjacent hardbottom habitats offshore of Casey Key, loss of additional seagrass habitat and productive estuarine habitat, and changes in the quality and availability of beach nesting habitat for sea turtles and other wildlife habitat losses. It is also not specified

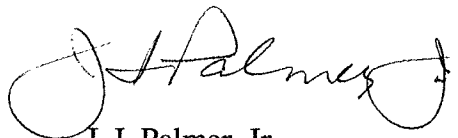
whether additional maintenance or deeper channel dredging will be needed for access to the inlet from locations within Little Sarasota Bay.

EPA staff visited the site on September 13, 2005. At this time, numerous marked sea turtle nests were located along Midnight Beach in the vicinity of the proposed pass. Marked nests occurred at a density of approximately 1 nest for every 15-20 feet of shoreline. The application states that the construction may take place during the nesting season. The bay side of the proposed pass is vegetated with healthy stands of mangroves, dense seagrasses, and appears to be a highly productive estuarine ecosystem.

EPA believes that the applicant has not documented the need for this project, the feasibility for long-term maintenance, demonstrated that the project avoids or minimizes impacts to the maximum extent practicable, nor has the applicant proposed any mitigation to offset the proposed unavoidable impacts. The potential impacts associated with this proposed project are significant in size and scope and affect a wide variety of ARNI. For these reasons, EPA believes that, based on the available information, this project does not comply with the Guidelines. In accordance with the procedural requirements of the 1992 404(q) Memorandum of Agreement Part IV, 3(b) between the Corps of Engineers and EPA, I am advising you that the proposed work will result in substantial and unacceptable adverse impacts to ARNI and the project, as currently proposed, is not approvable at this time.

Thank you for the opportunity to comment on this request for authorization. If you have any questions regarding our comments, please contact Rhonda Evans at the letterhead address or by telephone at (404) 562-9369.

Sincerely,

A handwritten signature in black ink, appearing to read "J. I. Palmer, Jr.", with a large, stylized initial "J" on the left.

J. I. Palmer, Jr.
Regional Administrator

cc: USFWS, Jacksonville
NMFS, St. Petersburg



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

October 6, 2005

Colonel Robert M. Carpenter
District Engineer
Attn: Michael Nowicki
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

RECEIVED

OCT 11 2005

SUBJ: Sarasota County BCC
Permit Application No. SAJ-2004-12020 (IP-MN)

JACKSONVILLE DISTRICT
USACE

Dear Colonel Carpenter:

This letter is in response to the above referenced public notice dated August 8, 2005, to dredge Midnight Beach in order to create a pass between Little Sarasota Bay and the Gulf of Mexico. The project is located in Section 4, Township 38 South, Range 18 East, and Sections 32, 33, and 37, Township 37 South Range 18, East Bird Keys and Laurel, Sarasota County, Florida.

The applicant proposes to create a navigational channel from the Gulf Intracoastal Waterway to the Gulf of Mexico between Siesta and Casey Keys, dredge an access channel from the existing Turtle Beach boat ramp to the proposed pass, and nourish the gulfside beaches north and south of the proposed pass. The channel dredging will include the main 3,390-foot long, 300-foot wide (top width), 10-foot deep channel and the creation of a 1,450-foot long, 24-foot wide (bottom width), 6-foot deep access channel. The project is located within the Sarasota Bay National Estuary Program and is considered an estuarine system of national importance. Additionally, much of the impact would be within and near the Jim Neville Marine Preserve. Ephemeral passes have been located within the vicinity of the proposed navigational channel. The last channel closed in 1983 and has not been re-opened since. During that interim time period, Midnight Beach has increased in size and the surrounding shoreline has straightened reaching an equilibrium. The applicant estimates that, to maintain the proposed channel depths, approximately 250,000 cubic yards of spoil will need to be re-dredged approximately every four years. However, past efforts, prior to 1983, to maintain an inlet at this location resulted in the need for dredging at more frequent intervals.

Overall, the proposed project will adversely affect approximately 22 acres of estuarine habitat through dredging and an additional 22 acres of nearshore marine habitat for beach renourishment. Hardbottom habitats offshore of Casey Key also could be affected by the initial beach renourishment activities, as well as future renourishment activities. The applicant identifies the following direct impacts associated with the creation of a channel at the current

beach location in the public notice:

- Removal of 3.33 acres of mangroves,
- Removal of 8.98 acres of seagrasses,
- Removal of 3.96 acres of additional submerged bottom area,
- “Possible” impacts to an unidentified quantity of hardbottom habitat located offshore of Casey Key,
- Removal of 2.01 acres of coastal shrub and additional unspecified amount of other beach habitat,
- Unspecified impacts to nesting loggerhead and green sea turtles, and
- Potential impacts to manatees and other fisheries.

EPA staff visited the site on September 13, 2005. At this time, numerous marked sea turtle nests were located along Midnight Beach in the vicinity of the proposed pass. Marked nests occurred at a density of approximately 1 nest for every 15-20 feet of shoreline. The application states that the construction may take place during the nesting season. The bay side of the proposed pass is vegetated with healthy stands of mangroves, dense seagrasses, and appears to be a highly productive estuarine ecosystem. In addition to the direct impacts identified in the public notice, EPA is concerned that there will be significant secondary effects associated with this project. Sediment washout and boating impacts could significantly impact adjacent estuarine bottoms, including the dense seagrass beds. Erosion and sedimentation could also occur from boat utilization of the channel and storm events entering through the 10-foot deep inlet. It is also not specified whether additional maintenance or deeper channel dredging will be needed for access to the inlet from locations within Little Sarasota Bay.

EPA is particularly concerned that over 44 acres of marine and aquatic resources of national importance will be directly affected as a result of the proposed project. In addition to the direct impacts associated with this project, EPA is concerned that considerable indirect impacts will be associated with increased boat traffic and the effects of maintenance dredging in the future. Such impacts could include sedimentation of adjacent hardbottom habitats offshore of Casey Key, loss of additional seagrass habitat and productive estuarine habitat, and changes in the quality and availability of beach nesting habitat for sea turtles and other wildlife habitat losses.

The applicant states that the project purposes are to: restore tidal flow to Little Sarasota Bay, improve water quality in the bay, improve boat access to the Gulf of Mexico, and provide high quality beach sand for nourishment of South Siesta and Casey Keys. Based on EPA's observations and review of salinity, tidal regimes and water quality data, it appears that Little Sarasota Bay is functioning as a high quality estuarine system and that Big Pass to the north and Venice Inlet to the south provide adequate boating access to the Gulf of Mexico. It also appears that the beach system provides significant recreational and small boating opportunities for the public that would be lost due to the proposed project. Please provide documentation to support the stated project purposes to include: changes in salinity regime and tidal elevations pre- and post- closing of the former Midnight Pass, documented water quality impairments and resultant


total maximum daily load (TMDL) allocations, and any other available data to support the purposes for this project.

Please also provide information on the alternatives analysis to include: alternatives analysis for project location, alternatives analysis for site design, and cumulative effects analysis. With the alternatives analysis, please also provide historical information and any modeling or other documentation supporting the anticipated long-term dredging and disposal needs for maintaining the proposed project in this artificial configuration. Within the cumulative effects analysis, please provide documentation on regional dredging needs, anticipated increases in boating sizes, activities and impacts, affects on direct and adjacent habitats and wildlife, including sea turtle nesting and manatees. No action alternatives should be addressed as part of this assessment.

EPA believes that the applicant has not documented the need for this project, the feasibility for long-term maintenance, demonstrated that the project avoids or minimizes impacts to the maximum extent possible, nor has the applicant provided any type of mitigation for unavoidable impacts. The potential impacts associated with this proposed project are significant in size and scope and affect a wide variety of aquatic resources of national importance. EPA believes that this project does not comply with the Section 404(b)(1) Guidelines. Therefore, we conclude that the proposed project is not approvable at this time. We, therefore, retain the option to refer this project through the procedures outlined in the 1992 Memorandum of Agreement between EPA and the Department of Army, Part IV, Elevation of Individual Permits, paragraph 3(a), regarding Section 404(q) of the Clean Water Act.

Thank you for the opportunity to comment on this request for authorization. If you have any questions regarding our comments, please contact Rhonda Evans at the letterhead address or by telephone at (404) 562-9369.

Sincerely,



Ronald J. Mikulak, Chief
Wetlands Regulatory Section

cc: USFWS, Jacksonville
NMFS, St. Petersburg



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701
(727) 824-5317; FAX 824-5300
<http://sero.nmfs.noaa.gov>

OCT 31 2005 F/SER46:MS/

Colonel Robert M. Carpenter, District Engineer
Department of the Army, Corps of Engineers
Jacksonville District
Post Office Box 4970
Jacksonville, Florida 32232-0019

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JACKSONVILLE DISTRICT
USACE

Dear Colonel Carpenter:

This letter is in reference to your office's public notice dated August 8, 2005, regarding Permit Application SAJ-2004-12020 (IP-MN). Sarasota County Board of County Commissioners proposes to dredge a navigation channel from the Gulf Intracoastal Waterway through the former location of Midnight Pass into the Gulf of Mexico, in Sarasota County, Florida. The proposed work would include the dredging of submerged aquatic vegetation (SAV) and mangrove habitats.

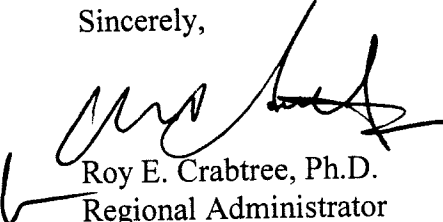
NOAA's National Marine Fisheries Service (NMFS), Southeast Region, Habitat Conservation Division, has recommended, by letter dated October 5, 2005 (copy enclosed), that Department of the Army authorization not be granted for construction of the channel as proposed. The proposed dredging activities would directly impact approximately 22 acres of estuarine habitats which provide nursery, forage, and refuge habitat for economically and ecologically important fish and shellfish. Species such as gulf menhaden, gag grouper, Spanish mackerel, snook, tarpon, seatrout, blue crab, gray snapper and pink shrimp are among the many species which utilize habitats of the project site. Compensatory mitigation to offset SAV and mangrove impacts has not been proposed. Because the proposed project would result in a significant net loss of essential fish habitat and other aquatic resources of national importance for which NMFS is responsible, we find the proposed project and lack of mitigation measures unacceptable.

Pursuant to Part IV.3(b) of the Memorandum of Agreement between the Department of Commerce and the Department of the Army dated August 11, 1992, I have reviewed the findings of my field staff and determined that the proposed work would have a substantial and unacceptable impact on nationally important aquatic resources. Therefore, I request that you



fully consider the views and recommendations of NMFS in making your final decision concerning authorization of the proposed work. I also encourage continued efforts to resolve this matter at the field level, and I have requested that my field staff continue to cooperate in any related effort to this end.

Sincerely,



Roy E. Crabtree, Ph.D.
Regional Administrator

Enclosure

cc: F/SER4
F/SER46 – Sramek



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701
(727) 824-5317; FAX 824-5300
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October 5, 2005 F/SER46:MS:dc

Colonel Robert M. Carpenter, District Engineer
Regulatory Division
South Permits Branch/West Permits Section
Jacksonville District Corps of Engineers
P. O. Box 4970
Jacksonville, Florida 32232-0019

RECEIVED

OCT 11 2005

JACKSONVILLE DISTRICT
USACE

Dear Colonel Carpenter:

NOAA's National Marine Fisheries Service (NMFS), Southeast Region, Habitat Conservation Division, has reviewed the public notice dated August 8, 2005, regarding Permit Application Number SAJ-2004-12020 (IP-MN). Sarasota County BCC proposes to dredge a 3,390-foot long, 300-foot wide (top width), 10-foot deep (NGVD) navigation channel from the Gulf Intracoastal Waterway (GIWW) in Little Sarasota Bay, westward through the former location of Midnight Pass into the Gulf of Mexico. Plans also include the creation of a 1,450-foot long, 24-foot wide (bottom width), 6-foot deep access channel from the Turtle Beach boat ramp to the proposed pass. Dredged material would be used for beach renourishment on Siesta and Casey Keys, in Sarasota County, Florida.

NMFS conducted a site inspection with staffs from the U. S. Environmental Protection Agency and Florida Fish and Wildlife Conservation Commission on September 13, 2005. Based on information in the public notice and our field investigation, project impacts would include the dredging of approximately 13 acres of submerged aquatic vegetation (SAV), 3.3 acres of mangrove wetlands, and four acres of unvegetated benthic habitat in Little Sarasota Bay, and the filling of 0.85 acre of unvegetated marine intertidal habitat in the Gulf of Mexico. We anticipate the project to adversely affect approximately 22 acres of estuarine habitat through dredging and 22 acres of nearshore marine habitat for beach renourishment. Hardbottom habitats offshore of Casey Key also could be affected by beach renourishment activities.

The project and adjacent marine areas contain essential fish habitat (EFH) designated for postlarval, juvenile and subadult pink shrimp; postlarval, juvenile and adult red drum; adult black grouper; juvenile vermilion snapper; adult spiny lobster; juvenile Spanish mackerel; postlarval and juvenile bluefish; juvenile red and gag grouper; and juvenile and adult gray, yellowtail, and lane snappers. EFH was designated through the 1998 generic amendment of the Gulf of Mexico Fishery Management Council's Fishery Management



Plans for the Gulf of Mexico. The 1998 generic amendment was prepared as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Categories of EFH that would be affected include SAV, mangrove wetlands, estuarine and marine water columns, sand substrates, and marine live/hard bottom. In addition to being designated as EFH for federally managed species, these areas provide nursery, foraging, and refuge habitat for other economically important fish and shellfish, such as blue crab, bay scallop, bluefish, striped mullet, spotted seatrout and Atlantic croaker; and for pinfish, killifish, gulf menhaden, and other forage species. Blue crab, snapper, red drum, tarpon, and shrimp are species of "national economic importance" as identified pursuant to Section 906(e)(1) of the Water Resources Development Act of 1986 (PL 99-602), and therefore, are aquatic resources of national importance (ARNI).

In addition to their fishery habitat value, SAV and mangrove wetlands produce nutrients and detritus, important components of the estuarine food web, and serve to stabilize bottom sediments and reduce turbidity (Zieman and Zieman 1989; Odum et al. 1982). Unvegetated subtidal areas serve as productive growth sites for macro- and microphytic algae, benthic diatoms, benthic dinoflagellates, polychaete worms, crustaceans, molluscs, and insect larvae. As such, these areas are important sources of food for fish and invertebrates that are of commercial, recreational, and ecological importance (Armstrong 1987). The removal of these habitats within Little Sarasota Bay would impact fishery resources and impair water quality maintenance functions of the system

While NMFS' main concern is with the proposed dredging of approximately 22 acres of estuarine habitats in Little Sarasota Bay, in consideration of the breadth and densities of SAV adjacent to the project area, increased boating activities in this area could result in significant secondary impacts on estuarine habitats. Degradation of benthic habitats could occur through vessel groundings, prop scarring, and sediment washout. Also, erosion and sedimentation of SAV habitats could occur from boat utilization of the channel and storm events entering through the 10-foot deep inlet. We further believe that the opening of Midnight Pass for navigation between the GIWW and the Gulf of Mexico is unnecessary. Adequate passage between the bay and Gulf of Mexico is available at Big Sarasota Pass and Venice Inlet, which are located approximately six miles north and seven miles south, respectively, of the project area.

We also are concerned that the project could impact live/hard bottom habitats offshore of Casey Key. Dredging and dredged material disposal could cause sedimentation on these areas, degrading fishery habitat and reducing ecological diversity. We have found that some previously permitted beach renourishment projects have resulted in unanticipated sedimentation of adjacent live/hard bottom habitats (e.g., Department of the Army Permit Number SAJ-1991-296).

Adverse impacts from the proposed project would result in a significant loss of estuarine habitats and substantial and unacceptable impacts to EFH and ARNI. Further, we have

concerns with the precedence and magnitude of impacts that this activity, as proposed, would establish as similar future navigation projects are considered. Since closure of Midnight Pass in 1983, utilization of the existing inlets north and south of the project area has historically and continues to provide navigable access to the Gulf of Mexico. In view of the above and in accordance with Part IV. Section 3(a) of the Memorandum of Agreement between the Departments of Commerce and Army regarding Section 404(q) of the Clean Water Act, we do not support issuance of a permit for the project. To ensure the conservation of EFH and associated fishery resources, final action on the proposed activity should require the following:

EFH Conservation Recommendation

Authorization to dredge approximately 22 acres of estuarine habitats, including EFH within the project area, and renourishment of Casey and Siesta Keys' beaches utilizing resultant dredged material, shall not be granted.

Consistent with Section 305(b)(4)(B) of the Magnuson-Stevens Act and NMFS' implementing regulation at 50 CFR 600.920(k), your office is required to provide a written response to our EFH conservation recommendation within 30 days of receipt. If your response is inconsistent with our conservation recommendation, you must provide a substantive discussion justifying the reasons for not implementing this recommendation. If it is not possible to provide a substantive response within 30 days, the Corps of Engineers should provide an interim response to NMFS, to be followed by a detailed response. The detailed response should be provided in a manner to ensure that it is received by NMFS at least 10 days prior to final approval of the action.

If you have questions regarding NMFS' review of this project, please contact Mr. Mark Sramek at the letterhead address above, by telephone at (727) 824-5311, or e-mail at Mark.Sramek@noaa.gov. Issues concerning Endangered Species Act coordination related to this project should be directed to Eric Hawk at the above address, by calling (727) 551-5312, or e-mail at Eric.Hawk@noaa.gov.

Sincerely,



Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division

cc:

GMFMC – Tampa

F/SER4

F/SER46 – Sramek

cc: email

EPA – Rhonda Evans

FDEP – Ernestine Robinson, Lizbeth Meigs

FL FWCC – Jim Beever, Chris Gudeman

FWS – Allen Webb

SWFWMD – Ed Craig

Literature Cited

- Armstrong, N.E. 1987. The ecology of open-bay bottoms of Texas: a community profile. U.S. Fish Wildl. Serv. Biol. Rep. 85(7.12). 104pp.
- Odum W.E., C.C. McIvor, and T.J. Smith III. 1982. The ecology of the mangroves of south Florida: a community profile. U.S. Fish. Wildl. Serv., Office of Biological Services, Washington D.C. FWS/OBS-81/24. 144pp.
- Zieman, J.C., and R.T. Zieman. 1989. The ecology of the seagrass meadows of the west coast of Florida: a community profile. U.S. Fish Wildl. Serv. Biol. Rep. 85(7.25). 155 pp.